

FIRST REGULAR SESSION

# SENATE BILL NO. 495

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time February 25, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2121S.011

## AN ACT

To repeal sections 288.036, 288.038, 288.090, 288.120, 288.121, 288.122, and 288.330, RSMo, and to enact in lieu thereof five new sections relating to employment security, with a delayed effective date for certain sections.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 288.036, 288.038, 288.090, 288.120, 288.121, 288.122, and 288.330, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 288.036, 288.038, 288.090, 288.120, and 288.330, to read as follows:

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services including commissions and bonuses and, except as provided in subdivision (7) of this section, the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips received from persons other than the employing unit, shall be considered wages only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the purposes of this chapter, treated as having been paid by the employing unit. Severance pay shall be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be considered as wages for the week with respect to which it is payable. The term "wages" shall not include:

(1) The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of, an individual under a plan or system established by an employing unit which makes provision generally for individuals performing

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 services for it or for a class or classes of such individuals, on account of:

17 (a) Sickness or accident disability, but in case of payments made to an  
18 employee or any of the employee's dependents this paragraph shall exclude from  
19 the term wages only payments which are received pursuant to a workers'  
20 compensation law; or

21 (b) Medical and hospitalization expenses in connection with sickness or  
22 accident disability; or

23 (c) Death;

24 (2) The amount of any payment on account of sickness or accident  
25 disability, or medical or hospitalization expenses in connection with sickness or  
26 accident disability, made by an employing unit to, or on behalf of, an individual  
27 performing services for it after the expiration of six calendar months following the  
28 last calendar month in which the individual performed services for such  
29 employing unit;

30 (3) The amount of any payment made by an employing unit to, or on  
31 behalf of, an individual performing services for it or his or her beneficiary:

32 (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from  
33 tax pursuant to 26 U.S.C. 501(a) at the time of such payment unless such  
34 payment is made to an employee of the trust as remuneration for services  
35 rendered as such an employee and not as a beneficiary of the trust; or

36 (b) Under or to an annuity plan which, at the time of such payments,  
37 meets the requirements of Section 404(a)(2) of the Federal Internal Revenue Code  
38 (26 U.S.C.A. Sec. 404);

39 (4) The amount of any payment made by an employing unit (without  
40 deduction from the remuneration of the individual in employment) of the tax  
41 imposed pursuant to Section 3101 of the Federal Internal Revenue Code (26  
42 U.S.C.A. Sec. 3101) upon an individual with respect to remuneration paid to an  
43 employee for domestic service in a private home or for agricultural labor;

44 (5) Remuneration paid in any medium other than cash to an individual  
45 for services not in the course of the employing unit's trade or business;

46 (6) Remuneration paid in the form of meals provided to an individual in  
47 the service of an employing unit where such remuneration is furnished on the  
48 employer's premises and at the employer's convenience, except that remuneration  
49 in the form of meals that is considered wages and required to be reported as  
50 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306 shall

51 be reported as wages as required thereunder;

52 (7) For the purpose of determining wages paid for agricultural labor as  
53 defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and  
54 for domestic service as defined in subsection 13 of section 288.034, only cash  
55 wages paid shall be considered;

56 (8) Beginning on October 1, 1996, any payment to, or on behalf of, an  
57 employee or the employee's beneficiary under a cafeteria plan, if such payment  
58 would not be treated as wages pursuant to the Federal Unemployment Tax Act.

59 2. [The increases or decreases to the state taxable wage base for the  
60 remainder of calendar year 2004 shall be eight thousand dollars, and the state  
61 taxable wage base in calendar year 2005, and each calendar year thereafter, shall  
62 be determined by the provisions within this subsection.] On January 1, 2005, the  
63 state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven  
64 thousand dollars. The taxable wage base for calendar year 2008 shall be twelve  
65 thousand dollars. [The state taxable wage base for each calendar year thereafter  
66 shall be determined by the average balance of the unemployment compensation  
67 trust fund of the four preceding calendar quarters (September thirtieth, June  
68 thirtieth, March thirty-first, and December thirty-first of the preceding calendar  
69 year), less any outstanding federal Title XII advances received pursuant to  
70 section 288.330, less the principal, interest, and administrative expenses related  
71 to any credit instrument issued under section 288.030, and less the principal,  
72 interest, and administrative expenses related to any financial agreements under  
73 subdivision (17) of subsection 2 of section 288.330. When the average balance of  
74 the unemployment compensation trust fund of the four preceding quarters  
75 (September thirtieth, June thirtieth, March thirty-first, and December thirty-first  
76 of the preceding calendar year), as so determined is:

77 (1) Less than, or equal to, three hundred fifty million dollars, then the  
78 wage base shall increase by one thousand dollars; or

79 (2) Six hundred fifty million or more, then the state taxable wage base for  
80 the subsequent calendar year shall be decreased by five hundred dollars. In no  
81 event, however, shall the state taxable wage base increase beyond twelve  
82 thousand five hundred dollars, or decrease to less than seven thousand dollars.]  
83 For calendar year 2009, the tax wage base shall be twelve thousand five hundred  
84 dollars. [For calendar year 2010 and each calendar year thereafter, in no event  
85 shall the state taxable wage base increase beyond thirteen thousand dollars, or

86 decrease to less than seven thousand dollars.] **For calendar year 2010 and**  
87 **every other calendar year thereafter, the taxable wage base shall**  
88 **increase by ten percent rounded to the nearest one-hundred-dollar**  
89 **increment. Such biennial increases of the taxable wage base shall be**  
90 **suspended when the balance in the unemployment compensation trust**  
91 **fund reaches an "Average High Cost Multiple", as that term is defined**  
92 **by the United States Department of Labor, equal to or greater than 0.45.**  
93 **If the balance in the unemployment compensation trust fund reaches**  
94 **an average high cost multiple greater than 0.45, the taxable wage base**  
95 **shall decrease every calendar year by ten percent rounded to the**  
96 **nearest one-hundred-dollar increment. Such annual decreases of the**  
97 **taxable wage base shall be suspended when the balance in the**  
98 **unemployment compensation trust fund reaches an average high cost**  
99 **multiple equal to or less than 0.45.**

100 For any calendar year, the state taxable wage base shall not be reduced to less  
101 than that part of the remuneration which is subject to a tax under a federal law  
102 imposing a tax against which credit may be taken for contributions required to  
103 be paid into a state unemployment compensation trust fund. [Nothing in this  
104 section shall be construed to prevent the wage base from increasing or decreasing  
105 by increments of five hundred dollars.]

288.038. With respect to initial claims filed during calendar years 2004  
2 and 2005, the "maximum weekly benefit amount" means four percent of the total  
3 wages paid to an eligible insured worker during that quarter of the worker's base  
4 period in which the worker's wages were the highest, but the maximum weekly  
5 benefit amount shall not exceed two hundred fifty dollars in the calendar years  
6 2004 and 2005. With respect to initial claims filed during calendar years 2006  
7 and 2007 the "maximum weekly benefit amount" means four percent of the total  
8 wages paid to an eligible insured worker during that quarter of the worker's base  
9 period in which the worker's wages were the highest, but the maximum weekly  
10 benefit amount shall not exceed two hundred seventy dollars in calendar year  
11 2006 and the maximum weekly benefit amount shall not exceed two hundred  
12 eighty dollars in calendar year 2007. With respect to initial claims filed during  
13 calendar [year] **years 2008 [and each calendar year thereafter], 2009, 2010, and**  
14 **2011**, the "maximum weekly benefit amount" means four percent of the total  
15 wages paid to an eligible insured worker during the average of the two highest  
16 quarters of the worker's base period, but the maximum weekly benefit amount

17 shall not exceed three hundred twenty dollars. If such benefit amount is not a  
18 multiple of one dollar, such amount shall be reduced to the nearest lower full  
19 dollar amount. **For calendar year 2012 and every other calendar year**  
20 **thereafter, the maximum weekly benefit amount shall increase by four**  
21 **percent rounded to the nearest five-dollar increment. The applicable**  
22 **maximum weekly benefit amount for a respective calendar year shall**  
23 **apply to all initial claims filed during such calendar year.**

288.090. 1. Contributions shall accrue and become payable by each  
2 employer for each calendar year in which he is subject to this law. Such  
3 contributions shall become due and be paid by each employer to the division for  
4 the fund on or before the last day of the month following each calendar quarterly  
5 period of three months except when regulation requires monthly payment. Any  
6 employer upon application, or pursuant to a general or special regulation, may  
7 be granted an extension of time, not exceeding three months, for the making of  
8 his or her quarterly contribution and wage reports or for the payment of such  
9 contributions. Payment of contributions due shall be made to the treasurer  
10 designated pursuant to section 288.290.

11 (1) In the payment of any contributions due, a fractional part of a cent  
12 shall be disregarded unless it amounts to one-half cent or more, in which case it  
13 shall be increased to one cent;

14 (2) Contributions shall not be deducted in whole or in part from the wages  
15 of individuals in employment.

16 2. As of June thirtieth of each year, the division shall establish an  
17 average industry contribution rate for the next succeeding calendar year for each  
18 of the industrial classification divisions listed in the industrial classification  
19 system established by the federal government. The average industry contribution  
20 rate for each standard industrial classification division shall be computed by  
21 multiplying total taxable wages paid by each employer in the industrial  
22 classification division during the twelve consecutive months ending on June  
23 thirtieth by the employer's contribution rate established for the next calendar  
24 year and dividing the aggregate product for all employers in the industrial  
25 classification division by the total of taxable wages paid by all employers in the  
26 industrial classification division during the twelve consecutive months ending on  
27 June thirtieth. Each employer will be assigned to an industrial classification  
28 code division as determined by the division in accordance with the definitions

29 contained in the industrial classification system established by the federal  
30 government, and shall pay contributions at the average industry rate established  
31 for the preceding calendar year for the industrial classification division to which  
32 it is assigned or two and seven-tenths percent of taxable wages paid by it,  
33 whichever is the greater, unless there have been at least twelve consecutive  
34 calendar months immediately preceding the calculation date throughout which  
35 its account could have been charged with benefits. The division shall classify all  
36 employers meeting this chargeability requirement for each calendar year in  
37 accordance with their actual experience in the payment of contributions on their  
38 own behalf and with respect to benefits charged against their accounts, with a  
39 view to fixing such contribution rates as will reflect such experience. The division  
40 shall determine the contribution rate of each such employer in accordance with  
41 sections 288.113 to 288.126. Notwithstanding the provisions of this subsection,  
42 any employing unit which becomes an employer pursuant to the provisions of  
43 subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent  
44 of wages paid by it until its account has been chargeable with benefits for the  
45 period of time sufficient to enable it to qualify for a computed rate on the same  
46 basis as other employers.

47         3. Benefits paid to employees of any governmental entity and nonprofit  
48 organizations shall be financed in accordance with the provisions of this  
49 subsection. For the purpose of this subsection, a "nonprofit organization" is an  
50 organization (or group of organizations) described in Section 501(c)(3) of the  
51 United States Internal Revenue Code which is exempt from income tax under  
52 Section 501(a) of such code.

53         (1) A governmental entity which, pursuant to subsection 7 of section  
54 288.034, or nonprofit organization which, pursuant to subsection 8 of section  
55 288.034, is, or becomes, subject to this law on or after April 27, 1972, shall pay  
56 contributions due under the provisions of subsections 1 and 2 of this section  
57 unless it elects, in accordance with this subdivision, to pay to the division for the  
58 unemployment compensation fund an amount equal to the amount of regular  
59 benefits and of one-half of the extended benefits paid, that is attributable to  
60 service in the employ of such governmental entity or nonprofit organization, to  
61 individuals for weeks of unemployment which begin during the effective period  
62 of such election; except that, with respect to benefits paid for weeks of  
63 unemployment beginning on or after January 1, 1979, any such election by a

64 governmental entity shall be to pay to the division for the unemployment  
65 compensation fund an amount equal to the amount of all regular benefits and all  
66 extended benefits paid that is attributable to service in the employ of such  
67 governmental entity.

68 (a) A governmental entity or nonprofit organization which is, or becomes,  
69 subject to this law on or after April 27, 1972, may elect to become liable for  
70 payments in lieu of contributions for a period of not less than one calendar year,  
71 provided it files with the division a written notice of its election within the  
72 thirty-day period immediately following the date of the determination of such  
73 subjectivity. The provisions of paragraphs (a) through (e) of subdivision (4) of  
74 subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each  
75 calendar year thereafter, in the case of an employer who has elected to become  
76 liable for payments in lieu of contributions.

77 (b) A governmental entity or nonprofit organization which makes an  
78 election in accordance with paragraph (a) of this subdivision will continue to be  
79 liable for payments in lieu of contributions until it files with the division a  
80 written notice terminating its election not later than thirty days prior to the  
81 beginning of the calendar year for which such termination shall first be effective.

82 (c) A governmental entity or any nonprofit organization which has been  
83 paying contributions under this law for a period subsequent to January 1, 1972,  
84 may change to a reimbursable basis by filing with the division not later than  
85 thirty days prior to the beginning of any calendar year a written notice of election  
86 to become liable for payments in lieu of contributions. Such election shall not be  
87 terminable by the organization for that and the next calendar year.

88 (d) The division, in accordance with such regulations as may be adopted,  
89 shall notify each governmental entity or nonprofit organization of any  
90 determination of its status of an employer and of the effective date of any election  
91 which it makes and of any termination of such election. Such determination shall  
92 be subject to appeal as is provided in subsection 4 of section 288.130.

93 (2) Payments in lieu of contributions shall be made in accordance with the  
94 provisions of paragraph (a) of this subdivision, as follows:

95 (a) At the end of each calendar quarter, or at the end of any other period  
96 as determined by the director, the division shall bill the governmental entity or  
97 nonprofit organization (or group of such organizations) which has elected to make  
98 payments in lieu of contributions for an amount equal to the full amount of

99 regular benefits plus one-half of the amount of extended benefits paid during such  
100 quarter or other prescribed period that is attributable to service in the employ of  
101 such organization; except that, with respect to extended benefits paid for weeks  
102 of unemployment beginning on or after January 1, 1979, which are attributable  
103 to service in the employ of a governmental entity, the governmental entity shall  
104 be billed for the full amount of such extended benefits.

105 (b) Payment of any bill rendered under paragraph (a) of this subdivision  
106 shall be due and shall be made not later than thirty days after such bill was  
107 mailed to the last known address of the governmental entity or nonprofit  
108 organization or was otherwise delivered to it.

109 (c) Payments made by the governmental entity or nonprofit organization  
110 under the provisions of this subsection shall not be deducted or deductible, in  
111 whole or in part, from the remuneration of individuals in the employ of the  
112 organization.

113 (d) Past due payments of amounts in lieu of contributions shall be subject  
114 to the same interest and penalties that apply to past due contributions. Also,  
115 unpaid amounts in lieu of contributions, interest, penalties and surcharges are  
116 subject to the same assessment, civil action and compromise provisions of this law  
117 as apply to unpaid contributions. Further, the provisions of this law which  
118 provide for the adjustment or refund of contributions shall apply to the  
119 adjustment or refund of payments in lieu of contributions.

120 (3) If any governmental entity or nonprofit organization fails to timely file  
121 a required quarterly wage report, the division shall assess such entity or  
122 organization a penalty as provided in subsections 1 and 2 of section 288.160.

123 (4) Except as provided in subsection 4 of this section, each employer that  
124 is liable for payments in lieu of contributions shall pay to the division for the  
125 fund the amount of regular benefits plus the amount of one-half of extended  
126 benefits paid that are attributable to service in the employ of such employer;  
127 except that, with respect to benefits paid for weeks of unemployment beginning  
128 on or after January 1, 1979, a governmental entity that is liable for payments in  
129 lieu of contributions shall pay to the division for the fund the amount of all  
130 regular benefits and all extended benefits paid that are attributable to service in  
131 the employ of such employer. If benefits paid to an individual are based on wages  
132 paid by more than one employer in the base period of the claim, the amount  
133 chargeable to each employer shall be obtained by multiplying the benefits paid



134 by a ratio obtained by dividing the base period wages from such employer by the  
135 total wages appearing in the base period.

136 (5) Two or more employers that have become liable for payments in lieu  
137 of contributions, in accordance with the provisions of subdivision (1) of this  
138 subsection, may file a joint application to the division for the establishment of a  
139 group account for the purpose of sharing the cost of benefits paid that are  
140 attributable to service in the employ of such employers. Each such application  
141 shall identify and authorize a group representative to act as the group's agent for  
142 the purposes of this subdivision. Upon approval of the application, the division  
143 shall establish a group account for such employers effective as of the beginning  
144 of the calendar quarter in which the application was received and shall notify the  
145 group's representative of the effective date of the account. Such account shall  
146 remain in effect for not less than two years and thereafter until terminated at the  
147 discretion of the director or upon application by the group. Upon establishment  
148 of the account, each member of the group shall be liable for payments in lieu of  
149 contributions with respect to each calendar quarter in the amount that bears the  
150 same ratio to the total benefits paid in such quarter that are attributable to  
151 service performed in the employ of all members of the group as the total wages  
152 paid for service in employment by such member in such quarter bears to the total  
153 wages paid during such quarter for service performed in the employ of all  
154 members of the group. The director shall prescribe such regulations as he or she  
155 deems necessary with respect to applications for establishment, maintenance and  
156 termination of group accounts that are authorized by this subdivision, for  
157 addition of new members to, and withdrawal of active members from, such  
158 accounts, and for the determination of the amounts that are payable under this  
159 subdivision by members of the group and the time and manner of such payments.

160 4. Any employer which elects to make payments in lieu of contributions  
161 into the unemployment compensation fund as provided in subdivision (1) of  
162 subsection 3 of this section shall not be liable to make such payments with  
163 respect to the benefits paid to any individual whose base period wages include  
164 wages for previous work not classified as insured work as defined in section  
165 288.030 to the extent that the unemployment compensation fund is reimbursed  
166 for such benefits pursuant to Section 121 of Public Law 94-566.

167 5. [Any employer which elects to make payments in lieu of contributions  
168 pursuant to subsection 3 of this section shall be liable for an additional surcharge

169 to the division for the unemployment compensation trust fund in an amount equal  
170 to the interest rate on United States treasury bills, averaged for the previous four  
171 calendar quarters, multiplied by the total benefit payments charged to the  
172 employer's account. Governmental entities except cities, counties and the state  
173 of Missouri which elect to make payments in lieu of contributions pursuant to  
174 subsection 3 of this section shall be liable for an additional surcharge to the  
175 division for the unemployment compensation fund in an amount equal to one-half  
176 of the interest rate on United States treasury bills, averaged for the previous four  
177 calendar quarters, multiplied by the total benefit payments charged to the  
178 employer's account. The cumulative benefits charged plus the cumulative  
179 surcharges pursuant to this subsection for all employers electing to make  
180 payments in lieu of contributions shall not exceed the summation of total benefit  
181 payments chargeable and not chargeable for the calendar quarter. The provisions  
182 of this subsection shall not be effective after September 30, 1993.

183         6. Beginning October 1, 1993, through December 31, 1993, any employer  
184 which elects to make payments in lieu of contributions pursuant to subsection 3  
185 of this section shall be liable for an additional surcharge to the division for the  
186 unemployment compensation trust fund in an amount equal to the interest rate  
187 of United States treasury bills, averaged for the previous four calendar quarters,  
188 multiplied by the total benefit payments charged to the employer's account. The  
189 cumulative benefits charged plus the cumulative surcharges pursuant to this  
190 subsection for all employers electing to make payments in lieu of contributions  
191 shall not exceed the summation of total benefit payments chargeable and not  
192 chargeable for the calendar quarter.

193         7. Beginning January 1, 1994, through December 31, 1995, any employer  
194 which elects to make payments in lieu of contributions pursuant to subsection 3  
195 of this section shall be liable for an additional surcharge to the division for the  
196 unemployment compensation trust fund. The calendar year surcharge rate will  
197 be the base prime rate on corporate loans posted by at least seventy-five percent  
198 of the nation's thirty largest banks as of November thirtieth of the preceding  
199 year. The additional surcharge will be the surcharge rate multiplied by the total  
200 benefit payments charged to the employer's account. The cumulative benefits  
201 charged plus the cumulative surcharges pursuant to this subsection for all  
202 employers electing to make payments in lieu of contributions shall not exceed the  
203 summation of total benefit payments chargeable and not chargeable for the

204 calendar quarter.

205           8. Beginning January 1, 1996, through December 31, 1996, any employer  
206 which elects to make payments in lieu of contributions pursuant to subsection 3  
207 of this section shall be liable for the total benefit payments chargeable to its  
208 account pursuant to the provisions of section 288.100 plus one-third of the total  
209 benefit payments not charged to its account pursuant to paragraphs (a) through  
210 (e) of subdivision (4) of subsection 1 of section 288.100. The remaining two-thirds  
211 of the benefit payments not charged to its account pursuant to paragraphs (a)  
212 through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by  
213 the unemployment compensation trust fund.

214           9. Beginning January 1, 1997, through December 31, 1997, any employer  
215 which elects to make payments in lieu of contributions pursuant to subsection 3  
216 of this section shall be liable for the total benefit payments chargeable to its  
217 account pursuant to the provisions of section 288.100 plus two-thirds of the total  
218 benefit payments not charged to its account pursuant to paragraphs (a) through  
219 (e) of subdivision (4) of subsection 1 of section 288.100. The remaining one-third  
220 of the benefit payments not charged to its account pursuant to paragraphs (a)  
221 through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by  
222 the unemployment compensation trust fund.

223           10. Beginning January 1, 1998, and each calendar year thereafter,] Any  
224 employer which elects to make payments in lieu of contributions pursuant to  
225 subsection 3 of this section shall be liable for all benefit payments and shall not  
226 have charges relieved pursuant to the provisions of paragraphs (a) through (e) of  
227 subdivision (4) of subsection 1 of section 288.100.

228           [11.] 6. (1) For the purposes of this chapter, a common paymaster  
229 arrangement will not exist unless approval has been obtained from the division.  
230 To receive a division-approved common paymaster arrangement, the related  
231 corporation designated to be the common paymaster for the related corporations  
232 must notify the division in writing at least thirty days prior to the beginning of  
233 the quarter in which the common paymaster reporting is to be effective. The  
234 common paymaster shall furnish the name and account number of each  
235 corporation in the related group that will be utilizing the one corporation as the  
236 common paymaster. The common paymaster shall also notify the division at least  
237 thirty days prior to any change in the related group of corporations or  
238 termination of the common paymaster arrangement. The common paymaster

239 shall be responsible for keeping books and records for the payroll with respect to  
240 its own employees and the concurrently employed individuals of the related  
241 corporations. In order for remuneration to be eligible for the provisions  
242 applicable to a common paymaster, the individuals must be concurrently  
243 employed and the remuneration must be disbursed through the common  
244 paymaster. The common paymaster shall have the primary responsibility for  
245 remitting all required quarterly contribution and wage reports, contributions due  
246 with respect to the remuneration it disburses as the common paymaster and/or  
247 payments in lieu of contributions. The common paymaster shall compute the  
248 contributions due as though it were the sole employer of the concurrently  
249 employed individuals. If the common paymaster fails to remit the quarterly  
250 contribution and wage reports, contributions due and/or payments in lieu of  
251 contributions, in whole or in part, it shall remain liable for submitting the  
252 quarterly contribution and wage reports and the full amount of the unpaid  
253 portion of the contributions due and/or payments in lieu of contributions. In  
254 addition, each of the related corporations using the common paymaster shall be  
255 jointly and severally liable for submitting quarterly contribution and wage  
256 reports, its share of the contributions due and/or payments in lieu of  
257 contributions, penalties, interest and surcharges which are not submitted and/or  
258 paid by the common paymaster. All contributions due, payments in lieu of  
259 contributions, penalties, interest and surcharges which are not timely paid to the  
260 division under a common paymaster arrangement shall be subject to the collection  
261 provisions of this chapter.

262       (2) For the purposes of this subsection, "concurrent employment" means  
263 the simultaneous existence of an employment relationship between an individual  
264 and two or more related corporations for any calendar quarter in which employees  
265 are compensated through a common paymaster which is one of the related  
266 corporations, those corporations shall be considered one employing unit and be  
267 subject to the provisions of this chapter.

268       (3) For the purposes of this subsection, "related corporations" means that  
269 corporations shall be considered related corporations for an entire calendar  
270 quarter if they satisfy any one of the following tests at any time during the  
271 calendar quarter:

272       (a) The corporations are members of a "controlled group of  
273 corporations". The term "controlled group of corporations" means:

274 a. Two or more corporations connected through stock ownership with a  
 275 common parent corporation, if the parent corporation owns stock possessing at  
 276 least fifty percent of the total combined voting power of all classes of stock  
 277 entitled to vote or at least fifty percent of the total value of shares of all classes  
 278 of stock of each of the other corporations; or

279 b. Two or more corporations, if five or less persons who are individuals,  
 280 estates or trusts own stock possessing at least fifty percent of the total combined  
 281 voting power of all classes of stock entitled to vote or at least fifty percent of the  
 282 total value of shares of all classes of stock of each of the other corporations; or

283 (b) In the case of corporations which do not issue stock, at least fifty  
 284 percent of the members of one corporation's board of directors are members of the  
 285 board of directors of the other corporations; or

286 (c) At least fifty percent of one corporation's officers are concurrently  
 287 officers of the other corporations; or

288 (d) At least thirty percent of one corporation's employees are concurrently  
 289 employees of the other corporations.

290 **7. All contributions and payments in lieu of contributions paid**  
 291 **by employers under the provisions of the this chapter shall be**  
 292 **deposited in the unemployment compensation fund and shall be used**  
 293 **exclusively for the purposes of this chapter. Such contributions and**  
 294 **payments in lieu of contributions are federal funds and shall not be**  
 295 **deposited in any other state fund or used for any other purpose.**

288.120. 1. On each June thirtieth, or within a reasonable time thereafter  
 2 as may be fixed by regulation, the balance of an employer's experience rating  
 3 account, except an employer participating in a shared work plan under section  
 4 288.500, shall determine his contribution rate for the following calendar year as  
 5 determined by the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll			
8	Equals or Exceeds	Less Than	Contribution Rate
9	-----	-12.0	6.0%
10	-12.0	-11.0	5.8%
11	-11.0	-10.0	5.6%
12	-10.0	-9.0	5.4%

13	-9.0	-8.0	5.2%
14	-8.0	-7.0	5.0%
15	-7.0	-6.0	4.8%
16	-6.0	-5.0	4.6%
17	-5.0	-4.0	4.4%
18	-4.0	-3.0	4.2%
19	-3.0	-2.0	4.0%
20	-2.0	-1.0	3.8%
21	-1.0	0	3.6%
22	0	2.5	2.7%
23	2.5	3.5	2.6%
24	3.5	4.5	2.5%
25	4.5	5.0	2.4%
26	5.0	5.5	2.3%
27	5.5	6.0	2.2%
28	6.0	6.5	2.1%
29	6.5	7.0	2.0%
30	7.0	7.5	1.9%
31	7.5	8.0	1.8%
32	8.0	8.5	1.7%
33	8.5	9.0	1.6%
34	9.0	9.5	1.5%
35	9.5	10.0	1.4%
36	10.0	10.5	1.3%
37	10.5	11.0	1.2%
38	11.0	11.5	1.1%
39	11.5	12.0	1.0%
40	12.0	12.5	0.9%
41	12.5	13.0	0.8%
42	13.0	13.5	0.6%
43	13.5	14.0	0.4%
44	14.0	14.5	0.3%

45	14.5	15.0	0.2%
46	15.0	----	0.0%

47 For calendar year 2010 and each calendar year thereafter, an  
 48 employer's contribution rate, except an employer participating in a  
 49 shared work plan under section 288.500, shall be determined from the  
 50 balance in such employer's experience rating account as of the previous  
 51 June thirtieth, or within a reasonable time thereafter as may be fixed  
 52 by regulation, from the following table:

53 **Percentage the Employer's Experience Rating**  
 54 **Account is to that Employer's Average Annual Payroll**

55	<b>Equals or Exceeds</b>	<b>Less Than</b>	<b>Contribution Rate</b>
56	-----	-12.0	7.80%
57	-12.0	-11.0	7.54%
58	-11.0	-10.0	7.28%
59	-10.0	-9.0	7.02%
60	-9.0	-8.0	6.76%
61	-8.0	-7.0	6.50%
62	-7.0	-6.0	6.24%
63	-6.0	-5.0	5.98%
64	-5.0	-4.0	5.72%
65	-4.0	-3.0	5.46%
66	-3.0	-2.0	5.20%
67	-2.0	-1.0	4.94%
68	-1.0	0	4.68%
69	0	2.5	3.51%
70	2.5	3.5	3.38%
71	3.5	4.5	3.25%
72	4.5	5.0	3.12%
73	5.0	5.5	2.99%
74	5.5	6.0	2.86%
75	6.0	6.5	2.73%
76	6.5	7.0	2.60%

77	<b>7.0</b>	<b>7.5</b>	<b>2.47%</b>
78	<b>7.5</b>	<b>8.0</b>	<b>2.34%</b>
79	<b>8.0</b>	<b>8.5</b>	<b>2.21%</b>
80	<b>8.5</b>	<b>9.0</b>	<b>2.08%</b>
81	<b>9.0</b>	<b>9.5</b>	<b>1.95%</b>
82	<b>9.5</b>	<b>10.0</b>	<b>1.82%</b>
83	<b>10.0</b>	<b>10.5</b>	<b>1.69%</b>
84	<b>10.5</b>	<b>11.0</b>	<b>1.56%</b>
85	<b>11.0</b>	<b>11.5</b>	<b>1.43%</b>
86	<b>11.5</b>	<b>12.0</b>	<b>1.30%</b>
87	<b>12.0</b>	<b>12.5</b>	<b>1.17%</b>
88	<b>12.5</b>	<b>13.0</b>	<b>1.04%</b>
89	<b>13.0</b>	<b>13.5</b>	<b>0.78%</b>
90	<b>13.5</b>	<b>14.0</b>	<b>0.52%</b>
91	<b>14.0</b>	<b>14.5</b>	<b>0.39%</b>
92	<b>14.5</b>	<b>15.0</b>	<b>0.26%</b>
93	<b>15.0</b>	<b>----</b>	<b>0.00%</b>

94           2. Using the same mathematical principles used in constructing the table  
 95 provided in subsection 1 of this section, the following table has been  
 96 constructed. The contribution rate for the following calendar year of any  
 97 employer participating in a shared work plan under section 288.500 during the  
 98 current calendar year or any calendar year during a prior three-year period shall  
 99 be determined from the balance in such employer's experience rating account as  
 100 of the previous June thirtieth, or within a reasonable time thereafter as may be  
 101 fixed by regulation, from the following table:

102                                   Percentage the Employer's Experience Rating  
 103                                   Account is to that Employer's Average Annual Payroll

104	<b>Equals or Exceeds</b>	<b>Less Than</b>	<b>Contribution Rate</b>
105	<b>-----</b>	<b>-27.0</b>	<b>9.0%</b>
106	<b>-27.0</b>	<b>-26.0</b>	<b>8.8%</b>
107	<b>-26.0</b>	<b>-25.0</b>	<b>8.6%</b>
108	<b>-25.0</b>	<b>-24.0</b>	<b>8.4%</b>



109	-24.0	-23.0	8.2%
110	-23.0	-22.0	8.0%
111	-22.0	-21.0	7.8%
112	-21.0	-20.0	7.6%
113	-20.0	-19.0	7.4%
114	-19.0	-18.0	7.2%
115	-18.0	-17.0	7.0%
116	-17.0	-16.0	6.8%
117	-16.0	-15.0	6.6%
118	-15.0	-14.0	6.4%
119	-14.0	-13.0	6.2%
120	-13.0	-12.0	6.0%
121	-12.0	-11.0	5.8%
122	-11.0	-10.0	5.6%
123	-10.0	-9.0	5.4%
124	-9.0	-8.0	5.2%
125	-8.0	-7.0	5.0%
126	-7.0	-6.0	4.8%
127	-6.0	-5.0	4.6%
128	-5.0	-4.0	4.4%
129	-4.0	-3.0	4.2%
130	-3.0	-2.0	4.0%
131	-2.0	-1.0	3.8%
132	-1.0	0	3.6%
133	0	2.5	2.7%
134	2.5	3.5	2.6%
135	3.5	4.5	2.5%
136	4.5	5.0	2.4%
137	5.0	5.5	2.3%
138	5.5	6.0	2.2%
139	6.0	6.5	2.1%
140	6.5	7.0	2.0%

141	7.0	7.5	1.9%
142	7.5	8.0	1.8%
143	8.0	8.5	1.7%
144	8.5	9.0	1.6%
145	9.0	9.5	1.5%
146	9.5	10.0	1.4%
147	10.0	10.5	1.3%
148	10.5	11.0	1.2%
149	11.0	11.5	1.1%
150	11.5	12.0	1.0%
151	12.0	12.5	0.9%
152	12.5	13.0	0.8%
153	13.0	13.5	0.6%
154	13.5	14.0	0.4%
155	14.0	14.5	0.3%
156	14.5	15.0	0.2%
157	15.0	----	0.0%

158 **For calendar year 2010 and each calendar year thereafter, the**  
 159 **contribution rate of any employer participating in a shared work plan**  
 160 **under section 288.500 during the current calendar year or any calendar**  
 161 **year during a prior three-year period shall be determined from the**  
 162 **balance in such employer's experience rating account as of the previous**  
 163 **June thirtieth, or within a reasonable time thereafter as may be fixed**  
 164 **by regulation, from the following table:**

165 **Percentage the Employer's Experience Rating**

166 **Account is to that Employer's Average Annual Payroll**

167	<b>Equals or Exceeds</b>	<b>Less Than</b>	<b>Contribution Rate</b>
168	<b>-----</b>	<b>-27.0</b>	<b>11.70%</b>
169	<b>-27.0</b>	<b>-26.0</b>	<b>11.44%</b>
170	<b>-26.0</b>	<b>-25.0</b>	<b>11.18%</b>
171	<b>-25.0</b>	<b>-24.0</b>	<b>10.92%</b>
172	<b>-24.0</b>	<b>-23.0</b>	<b>10.66%</b>

173	<b>-23.0</b>	<b>-22.0</b>	<b>10.40%</b>
174	<b>-22.0</b>	<b>-21.0</b>	<b>10.14%</b>
175	<b>-21.0</b>	<b>-20.0</b>	<b>9.88%</b>
176	<b>-20.0</b>	<b>-19.0</b>	<b>9.62%</b>
177	<b>-19.0</b>	<b>-18.0</b>	<b>9.36%</b>
178	<b>-18.0</b>	<b>-17.0</b>	<b>9.10%</b>
179	<b>-17.0</b>	<b>-16.0</b>	<b>8.84%</b>
180	<b>-16.0</b>	<b>-15.0</b>	<b>8.58%</b>
181	<b>-15.0</b>	<b>-14.0</b>	<b>8.32%</b>
182	<b>-14.0</b>	<b>-13.0</b>	<b>8.06%</b>
183	<b>-13.0</b>	<b>-12.0</b>	<b>7.80%</b>
184	<b>-12.0</b>	<b>-11.0</b>	<b>7.54%</b>
185	<b>-11.0</b>	<b>-10.0</b>	<b>7.28%</b>
186	<b>-10.0</b>	<b>-9.0</b>	<b>7.02%</b>
187	<b>-9.0</b>	<b>-8.0</b>	<b>6.76%</b>
188	<b>-8.0</b>	<b>-7.0</b>	<b>6.50%</b>
189	<b>-7.0</b>	<b>-6.0</b>	<b>6.24%</b>
190	<b>-6.0</b>	<b>-5.0</b>	<b>5.98%</b>
191	<b>-5.0</b>	<b>-4.0</b>	<b>5.72%</b>
192	<b>-4.0</b>	<b>-3.0</b>	<b>5.46%</b>
193	<b>-3.0</b>	<b>-2.0</b>	<b>5.20%</b>
194	<b>-2.0</b>	<b>-1.0</b>	<b>4.94%</b>
195	<b>-1.0</b>	<b>0</b>	<b>4.68%</b>
196	<b>0</b>	<b>2.5</b>	<b>3.51%</b>
197	<b>2.5</b>	<b>3.5</b>	<b>3.38%</b>
198	<b>3.5</b>	<b>4.5</b>	<b>3.25%</b>
199	<b>4.5</b>	<b>5.0</b>	<b>3.12%</b>
200	<b>5.0</b>	<b>5.5</b>	<b>2.99%</b>
201	<b>5.5</b>	<b>6.0</b>	<b>2.86%</b>
202	<b>6.0</b>	<b>6.5</b>	<b>2.73%</b>

203	<b>6.5</b>	<b>7.0</b>	<b>2.60%</b>
204	<b>7.0</b>	<b>7.5</b>	<b>2.47%</b>
205	<b>7.5</b>	<b>8.0</b>	<b>2.34%</b>
206	<b>8.0</b>	<b>8.5</b>	<b>2.21%</b>
207	<b>8.5</b>	<b>9.0</b>	<b>2.08%</b>
208	<b>9.0</b>	<b>9.5</b>	<b>1.95%</b>
209	<b>9.5</b>	<b>10.0</b>	<b>1.82%</b>
210	<b>10.0</b>	<b>10.5</b>	<b>1.69%</b>
211	<b>10.5</b>	<b>11.0</b>	<b>1.56%</b>
212	<b>11.0</b>	<b>11.5</b>	<b>1.43%</b>
213	<b>11.5</b>	<b>12.0</b>	<b>1.30%</b>
214	<b>12.0</b>	<b>12.5</b>	<b>1.17%</b>
215	<b>12.5</b>	<b>13.0</b>	<b>1.04%</b>
216	<b>13.0</b>	<b>13.5</b>	<b>0.78%</b>
217	<b>13.5</b>	<b>14.0</b>	<b>0.52%</b>
218	<b>14.0</b>	<b>14.5</b>	<b>0.39%</b>
219	<b>14.5</b>	<b>15.0</b>	<b>0.26%</b>
220	<b>15.0</b>	<b>----</b>	<b>0.00%</b>

221           3. Notwithstanding the provisions of subsection 2 of section 288.090, any  
 222 employer participating in a shared work plan under section 288.500 who has not  
 223 had at least twelve calendar months immediately preceding the calculation date  
 224 throughout which his account could have been charged with benefits shall have  
 225 a contribution rate equal to the highest contribution rate in the **applicable** table  
 226 in subsection 2 of this section, until such time as his account has been chargeable  
 227 with benefits for the period of time sufficient to enable him to qualify for a  
 228 computed rate on the same basis as other employers participating in shared work  
 229 plans.

230           4. Employers who have been taxed at the maximum rate pursuant to this  
 231 section for two consecutive years shall have a surcharge of one-quarter percent  
 232 added to their contribution rate calculated pursuant to this section. In the event  
 233 that an employer remains at the maximum rate pursuant to this section for a  
 234 third or subsequent year, an additional surcharge of one-quarter percent shall be

235 annually assessed, but in no case shall the surcharge authorized in this  
236 subsection cumulatively exceed one percent. Additionally, if an employer  
237 continues to remain at the maximum rate pursuant to this section an additional  
238 surcharge of one-half percent shall be assessed. In no case shall the total  
239 surcharge assessed to any employer exceed one and one-half percent in any given  
240 year.

288.330. 1. Benefits shall be deemed to be due and payable only to the  
2 extent that moneys are available to the credit of the unemployment compensation  
3 fund and neither the state nor the division shall be liable for any amount in  
4 excess of such sums. The governor is authorized to apply for an advance to the  
5 state unemployment fund and to accept the responsibility for the repayment of  
6 such advance in order to secure to this state and its citizens the advantages  
7 available under the provisions of federal law.

8 2. (1) The purpose of this subsection is to provide a method of providing  
9 funds for the payment of unemployment benefits or maintaining an adequate fund  
10 balance in the unemployment compensation fund, and as an alternative to  
11 borrowing or obtaining advances from the federal unemployment trust fund or for  
12 refinancing those loans or advances.

13 (2) For the purposes of this subsection, "credit instrument" means any  
14 type of borrowing obligation issued under this section, including any bonds,  
15 commercial line of credit note, tax anticipation note or similar instrument.

16 (3) (a) There is hereby created for the purposes of implementing the  
17 provisions of this subsection a body corporate and politic to be known as the  
18 "Board of Unemployment Fund Financing". The powers of the board shall be  
19 vested in five board members who shall be the governor, lieutenant governor,  
20 attorney general, director of the department of labor, and the commissioner of  
21 administration. The board shall have all powers necessary to effectuate its  
22 purposes including, without limitation, the power to provide a seal, keep records  
23 of its proceedings, and provide for professional services. The governor shall serve  
24 as chair, the lieutenant governor shall serve as vice chair, and the commissioner  
25 of administration shall serve as secretary. Staff support for the board shall be  
26 provided by the commissioner of administration;

27 (b) Notwithstanding the provisions of any other law to the contrary:

28 a. No officer or employee of this state shall be deemed to have forfeited  
29 or shall forfeit his or her office or employment by reason of his or her acceptance

30 of an appointment as a board member or for his or her service to the board;

31           b. Board members shall receive no compensation for the performance of  
32 their duties under this subsection, but each commissioner shall be reimbursed  
33 from the funds of the commission for his or her actual and necessary expenses  
34 incurred in carrying out his or her official duties under this subsection.

35           (c) In the event that any of the board members or officers of the board  
36 whose signatures or facsimile signatures appear on any credit instrument shall  
37 cease to be board members or officers before the delivery of such credit  
38 instrument, their signatures or facsimile signatures shall be valid and sufficient  
39 for all purposes as if such board members or officers had remained in office until  
40 delivery of such credit instrument.

41           (d) Neither the board members executing the credit instruments of the  
42 board nor any other board members shall be subject to any personal liability or  
43 accountability by reason of the issuance of the credit instruments.

44           (4) The board is authorized, by offering for public negotiated sale, to issue,  
45 sell, and deliver credit instruments, bearing interest at a fixed or variable rate  
46 as shall be determined by the board, which shall mature no later than ten years  
47 after issuance, in the name of the board in an amount determined by the board[,  
48 provided that the unpaid principal amount of any outstanding credit instruments,  
49 combined with the unpaid principal amount of any financing agreement entered  
50 into under subdivision (17) of this subsection, shall not exceed four hundred fifty  
51 million dollars at any one time]. Such credit instruments may be issued, sold,  
52 and delivered for the purposes set forth in subdivision (1) of this  
53 subsection. Such credit instrument may only be issued upon the approval of a  
54 resolution authorizing such issuance by a simple majority of the members of the  
55 board, with no other proceedings required.

56           (5) The board shall provide for the payment of the principal of the credit  
57 instruments, any redemption premiums, the interest on the credit instruments,  
58 and the costs attributable to the credit instruments being issued or outstanding  
59 as provided in this chapter. Unless the board directs otherwise, the credit  
60 instrument shall be repaid in the same time frame and in the same amounts as  
61 would be required for loans issued pursuant to 42 U.S.C. Section 1321; however,  
62 in no case shall credit instruments be outstanding for more than ten years.

63           (6) The board may irrevocably pledge money received from the credit  
64 instrument and financing agreement repayment surcharge under subsection 3 of

65 section 288.128, and other money legally available to it, which is deposited in an  
66 account authorized for credit instrument repayment in the special employment  
67 security fund, provided that the general assembly has first appropriated moneys  
68 received from such surcharge and other moneys deposited in such account for the  
69 payment of credit instruments.

70 (7) Credit instruments issued under this section shall not constitute debts  
71 of this state or of the board or any agency, political corporation, or political  
72 subdivision of this state and are not a pledge of the faith and credit of this state,  
73 the board or of any of those governmental entities and shall not constitute an  
74 indebtedness within the meaning of any constitutional or statutory limitation  
75 upon the incurring of indebtedness. The credit instruments are payable only from  
76 revenue provided for under this chapter. The credit instruments shall contain a  
77 statement to the effect that:

78 (a) Neither the state nor the board nor any agency, political corporation,  
79 or political subdivision of the state shall be obligated to pay the principal or  
80 interest on the credit instruments except as provided by this section; and

81 (b) Neither the full faith and credit nor the taxing power of the state nor  
82 the board nor any agency, political corporation, or political subdivision of the  
83 state is pledged to the payment of the principal, premium, if any, or interest on  
84 the credit instruments.

85 (8) The board pledges and agrees with the owners of any credit  
86 instruments issued under this section that the state will not limit or alter the  
87 rights vested in the board to fulfill the terms of any agreements made with the  
88 owners or in any way impair the rights and remedies of the owners until the  
89 credit instruments are fully discharged.

90 (9) The board may prescribe the form, details, and incidents of the credit  
91 instruments and make such covenants that in its judgment are advisable or  
92 necessary to properly secure the payment thereof. If such credit instruments  
93 shall be authenticated by the bank or trust company acting as registrar for such  
94 by the manual signature of a duly authorized officer or employee thereof, the duly  
95 authorized officers of the board executing and attesting such credit instruments  
96 may all do so by facsimile signature provided such signatures have been duly  
97 filed as provided in the uniform facsimile signature of public officials law,  
98 sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the  
99 board, and the provisions of section 108.175, RSMo, shall not apply to such credit

100 instruments. The board may provide for the flow of funds and the establishment  
101 and maintenance of separate accounts within the special employment security  
102 fund, including the interest and sinking account, the reserve account, and other  
103 necessary accounts, and may make additional covenants with respect to the credit  
104 instruments in the documents authorizing the issuance of credit instruments  
105 including refunding credit instruments. The resolutions authorizing the issuance  
106 of credit instruments may also prohibit the further issuance of credit instruments  
107 or other obligations payable from appropriated moneys or may reserve the right  
108 to issue additional credit instruments to be payable from appropriated moneys on  
109 a parity with or subordinate to the lien and pledge in support of the credit  
110 instruments being issued and may contain other provisions and covenants as  
111 determined by the board, provided that any terms, provisions or covenants  
112 provided in any resolution of the board shall not be inconsistent with the  
113 provisions of this section.

114 (10) The board may issue credit instruments to refund all or any part of  
115 the outstanding credit instruments issued under this section including matured  
116 but unpaid interest. As with other credit instruments issued under this section,  
117 such refunding credit instruments may bear interest at a fixed or variable rate  
118 as determined by the board.

119 (11) The credit instruments issued by the board, any transaction relating  
120 to the credit instruments, and profits made from the sale of the credit  
121 instruments are free from taxation by the state or by any municipality, court,  
122 special district, or other political subdivision of the state.

123 (12) As determined necessary by the board the proceeds of the credit  
124 instruments less the cost of issuance shall be placed in the state's unemployment  
125 compensation fund and may be used for the purposes for which that fund may  
126 otherwise be used. If those net proceeds are not placed immediately in the  
127 unemployment compensation fund they shall be held in the special employment  
128 security fund in an account designated for that purpose until they are transferred  
129 to the unemployment compensation fund provided that the proceeds of refunding  
130 credit instruments may be placed in an escrow account or such other account or  
131 instrument as determined necessary by the board.

132 (13) The board may enter into any contract or agreement deemed  
133 necessary or desirable to effectuate cost-effective financing hereunder. Such  
134 agreements may include credit enhancement, credit support, or interest rate



135 agreements including, but not limited to, arrangements such as municipal bond  
136 insurance; surety bonds; tax anticipation notes; liquidity facilities; forward  
137 agreements; tender agreements; remarketing agreements; option agreements;  
138 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and  
139 purchase agreements. Any fees or costs associated with such agreements shall  
140 be deemed administrative expenses for the purposes of calculating the credit  
141 instrument and financing agreement repayment surcharge under subsection 3 of  
142 section 288.128. The board, with consideration of all other costs being equal,  
143 shall give preference to Missouri-headquartered financial institutions, or those  
144 out-of-state-based financial institutions with at least one hundred Missouri  
145 employees.

146 (14) To the extent this section conflicts with other laws the provisions of  
147 this section prevail. This section shall not be subject to the provisions of sections  
148 23.250 to 23.298, RSMo.

149 (15) If the United States Secretary of Labor holds that a provision of this  
150 subsection or of any provision related to the levy or use of the credit instrument  
151 and financial agreement repayment surcharge does not conform with a federal  
152 statute or would result in the loss to the state of any federal funds otherwise  
153 available to it the board, in cooperation with the department of labor and  
154 industrial relations, may administer this subsection, and other provisions related  
155 to the credit instrument and financial agreement repayment surcharge, to  
156 conform with the federal statute until the general assembly meets in its next  
157 regular session and has an opportunity to amend this subsection or other  
158 sections, as applicable.

159 (16) Nothing in this chapter shall be construed to prohibit the officials of  
160 the state from borrowing from the government of the United States in order to  
161 pay unemployment benefits under subsection 1 of this section or otherwise.

162 (17) (a) As used in this subdivision the term "lender" means any state or  
163 national bank.

164 (b) The board is authorized to enter financial agreements with any lender  
165 for the purposes set forth in subdivision (1) of this subsection, or to refinance  
166 other financial agreements in whole or in part, upon the approval of the simple  
167 majority of the members of the board of a resolution authorizing such financial  
168 agreements, with no other proceedings required. [The total amount of the  
169 outstanding obligation under all such agreements at any one time shall not

170 exceed the difference of four hundred fifty million dollars and the principal  
171 amount of credit instruments outstanding under this subsection.] In no instance  
172 shall the outstanding obligation under any financial agreement continue for more  
173 than ten years. Repayment of obligations to lenders shall be made from the  
174 special employment security fund, section 288.310, subject to appropriation by the  
175 general assembly.

176 (c) Financial agreements entered into under this subdivision shall not  
177 constitute debts of this state or of the board or any agency, political corporation,  
178 or political subdivision of this state and are not a pledge of the faith and credit  
179 of this state, the board or of any of those governmental entities and shall not  
180 constitute an indebtedness within the meaning of any constitutional or statutory  
181 limitation upon the incurring of indebtedness. The financial agreements are  
182 payable only from revenue provided for under this chapter. The financial  
183 agreements shall contain a statement to the effect that:

184 a. Neither the state nor the board nor any agency, political corporation,  
185 or political subdivision of the state shall be obligated to pay the principal or  
186 interest on the financial agreements except as provided by this section; and

187 b. Neither the full faith and credit nor the taxing power of the state nor  
188 the board nor any agency, political corporation, or political subdivision of the  
189 state is pledged to the payment of the principal, premium, if any, or interest on  
190 the financial agreements.

191 (d) Neither the board members executing the financial agreements nor  
192 any other board members shall be subject to any personal liability or  
193 accountability by reason of the execution of such financial agreements.

194 (e) The board may prescribe the form, details and incidents of the  
195 financing agreements and make such covenants that in its judgment are  
196 advisable or necessary to properly secure the payment thereof provided that any  
197 terms, provisions or covenants provided in any such financing agreement shall  
198 not be inconsistent with the provisions of this section. If such financing  
199 agreements shall be authenticated by the bank or trust company acting as  
200 registrar for such by the manual signature of a duly authorized officer or  
201 employee thereof, the duly authorized officers of the board executing and  
202 attesting such financing agreements may all do so by facsimile signature provided  
203 such signatures have been duly filed as provided in the uniform facsimile  
204 signature of public officials law, sections 105.273 to 105.278, RSMo, when duly

205 authorized by resolution of the board and the provisions of section 108.175,  
 206 RSMo, shall not apply to such financing agreements.

207 (18) The commission may issue credit instruments to refund all or any  
 208 part of the outstanding borrowing issued under this section including matured  
 209 but unpaid interest.

210 (19) The credit instruments issued by the commission, any transaction  
 211 relating to the credit instruments, and profits made from the issuance of credit  
 212 are free from taxation by the state or by any municipality, court, special district,  
 213 or other political subdivision of the state.

214 3. In event of the suspension of this law, any unobligated funds in the  
 215 unemployment compensation fund, and returned by the United States Treasurer  
 216 because such Federal Social Security Act is inoperative, shall be held in custody  
 217 by the treasurer and under supervision of the division until the legislature shall  
 218 provide for the disposition thereof. In event no disposition is made by the  
 219 legislature at the next regular meeting subsequent to suspension of said law, then  
 220 all unobligated funds shall be returned ratably to those who contributed thereto.

221 4. For purposes of this section, as contained in senate substitute no. 2 for  
 222 senate committee substitute for house substitute for house committee substitute  
 223 for house bill nos. 1268 and 1211, ninety-second general assembly, second  
 224 regular session, the revisor of statutes shall renumber subdivision (16) of  
 225 subsection 2 of such section as subdivision (17) of such subsection and renumber  
 226 subdivision (17) of subsection 2 of such section as subdivision (16) of such  
 227 subsection.

[288.121. 1. On October first of each calendar year, if the  
 2 average balance, less any federal advances, of the unemployment  
 3 compensation trust fund of the four preceding quarters (September  
 4 thirtieth, June thirtieth, March thirty-first and December  
 5 thirty-first of the preceding calendar year) is less than four  
 6 hundred fifty million dollars, then each employer's contribution  
 7 rate calculated for the four calendar quarters of the succeeding  
 8 calendar year shall be increased by the percentage determined from  
 9 the following table:

10	Balance in Trust Fund		
11			Percentage
12	Less Than	Equals or Exceeds	of Increase

13	\$450,000,000	\$400,000,000	10%
14	\$400,000,000	\$350,000,000	20%
15	\$350,000,000		30%

16 For calendar years 2005, 2006, and 2007, the contribution rate of  
 17 any employer who is paying the maximum contribution rate shall  
 18 be increased by forty percent, instead of thirty percent as  
 19 previously indicated in the table in this section.

20 2. For calendar year 2007 and each year thereafter, an  
 21 employer's total contribution rate shall equal the employer's  
 22 contribution rate plus a temporary debt indebtedness assessment  
 23 equal to the amount to be determined in subdivision (6) of  
 24 subsection 2 of section 288.330 added to the contribution rate plus  
 25 the increase authorized under subsection 1 of this section. Any  
 26 moneys overcollected beyond the actual administrative, interest  
 27 and principal repayment costs for the credit instruments used shall  
 28 be deposited into the state unemployment insurance trust fund and  
 29 credited to the employer's experience account.]

[288.122. On October first of each calendar year, if the  
 2 average balance, less any federal advances, of the unemployment  
 3 compensation trust fund of the four preceding quarters (September  
 4 thirtieth, June thirtieth, March thirty-first and December  
 5 thirty-first of the preceding calendar year) is more than six  
 6 hundred million dollars, then each employer's contribution rate  
 7 calculated for the four calendar quarters of the succeeding calendar  
 8 year shall be decreased by the percentage determined from the  
 9 following table:

10	Balance in Trust Fund		
11			Percentage
12	More Than	Equal to or Less Than	of Decrease
13	\$600,000,000	\$750,000,000	7%
14	\$750,000,000		12%

15 Notwithstanding the table in this section, if the balance in the  
 16 unemployment insurance compensation trust fund as calculated in  
 17 this section is more than seven hundred fifty million dollars, the  
 18 percentage of decrease of the employer's contribution rate

19           calculated for the four calendar quarters of the succeeding calendar  
20           year shall be no greater than ten percent for any employer whose  
21           calculated contribution rate under section 288.120 is six percent or  
22           greater.]

          Section B. The repeal of sections 288.121 and 288.122 of this act shall be  
2   effective January 1, 2010.

✓

Unofficial

Bill

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